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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

20 UNITED STATES OF AMERICA,) Case No. CR-15-00226-BLF
21 Plaintiff,)
22 v.) UNITED STATES' TRIAL MEMORANDUM
23 DOUGLAS STORMS YORK,)
24 Defendant.)
25) Trial Date: July 20, 2015
26) Time: 9:00 a.m.
27) Courtroom: Hon. Beth Labson Freeman
28

Pursuant to the Court's standing order Re Pretrial Conference- Criminal Trial, The United States
hereby respectfully submits the following trial memorandum:

I. Legal Bases for the Charges

A. Count 1: 18 U.S.C. § 912

The government charges the defendant with one count of 18 U.S.C. § 912. 18 U.S.C. § 912-
False Impersonation of an Employee of the United States. The defendant falsely pretended to be a
federal officer or employee acting under the seal of the United States, and the defendant acted as such

1 **B. Count 2: 47 U.S.C. § 223(a)(1)(C).**

2 The government superseded the indictment on July 9, 2015, to include one count of 47 U.S.C. §
3 223(a)(1)(C). The parties' jointly prepared pretrial filings do not reflect the superseded charge, and will
4 be amended if necessary.

5 Certain forms of harassment may be prosecuted under 47 U.S.C. 223. This provision of this
6 statute makes it a federal crime to use a telephone or telecommunications device to abuse, harass, or
7 threaten any person. The statute also requires that the perpetrator not reveal his or her identity. *See* 47
8 U.S.C. § 223(a)(1)(C). An individual is in violation of § 223(a)(1)(C) when in interstate or foreign
9 communications, he makes a telephone call or utilizes a telecommunications device, whether or not
10 communication ensues, without disclosing his identity and with intent to abuse, threaten, or harass any
11 specific person.

12 **II. ANTICIPATED EVIDENCE**

13 As reflected in the government's Witness and Exhibit lists, the government intends to introduce
14 evidence and testimony to establish that the defendant made a phone call to Allan Hessenflow falsely
15 impersonating an employee of the Internal Revenue Service ("IRS") and acting as such. The
16 government intends to call one or more victims in the case to testify to the voice mail and his identity or
17 motive for making the call. Further, the government will introduce records and documents supporting
18 the count.

19 The government intends to introduce through testimony and exhibits, that defendant made a
20 phone call or interstate communication by making a call originating in California, by utilizing
21 "Spoofcard," whose servers are located in New Jersey. The defendant failed to identify himself as Doug
22 York, and attempted to conceal his identity by using a voice alteration feature. The government will
23 show that it was defendant's purpose to annoy or harass the victim and this will be shown through the
24 content of the voice mail and in conjunction with continued instances of harassment of the victims. The
25 government will show that over the course of several months, the defendant incessantly called both
26 Andrea York and Mr. Hessenflow. Phone records corroborate these incessant phone calls. A man
27 thought to be defendant was caught prowling around Hessenflow's property (this was caught on a home-
28 security camera video), and on other occasions defendant was caught pounding on doors and windows.

1 On one instance, the defendant placed a phony advertisement on Craigslist for Mr. Hessenflow's
2 Porsche, listing Mr. Hessenflow's address and subjecting him to drive-by visits from prospective buyers.
3 The defendant numerously accused Mr. Hessenflow of being a child predator, including making these
4 allegations to a Family Court Judge and other people known to Mr. Hessenflow. A sign listing Mr.
5 Hessenflow's address and claiming he was a child predator was posted on Mr. Hessenflow's street. This
6 incessant pattern of harassment, which included physical violence against Andrea York, took place over
7 the course of several months. Mr. Hessenflow, in turn, maintained a detailed log of each incident of
8 harassment.

9 **III. EVIDENTIARY, PROCEDURAL OR OTHER LEGAL ISSUES**

10 Presently pending before the Court is the parties' filed motions *in limine*. These motions address
11 the existing legal and evidentiary issues presented in the case.

14 DATED: July 9, 2015

Respectfully submitted,

15 MELINDA HAAG
16 United States Attorney

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18 /s/
19 BRIANNA L. PENNA
20 JEFF SCHENK
21 Assistant United States Attorneys
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